



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BRUCE E. BABBITT  
ATTORNEY GENERAL

*Wright*

February 9, 1977

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ARIZONA ATTORNEY GENERAL

The Honorable Charles F. Hyder  
Maricopa County Attorney  
400 Superior Court Building  
101 West Jefferson  
Phoenix, Arizona 85007

Attention: Mr. Q. Dale Hatch  
Deputy County Attorney

Re: 77-31 (R76-451)

Dear Mr. Hatch:

This letter is in response to your opinion letter of November 4, 1976 to Mr. William Lovett, Associate Superintendent, Mesa Public Schools concerning the duty of the Mesa Unified School District to supervise children crossing the Salt River Canal on the way to and from school.

Although we have not received the May 12, 1976 letter from you to the Mesa Public Schools referred to in your opinion, we do concur with the conclusions reached in the November 4, 1976 letter.

We would like, however, to bring to your attention A.R.S. § 28-797(B) which provides that schools may request that additional school crossings be established by the Arizona Department of Transportation if school authorities will assure the Department that guards will be used at the crossing.

Very truly yours,

BRUCE E. BABBITT  
Attorney General

BEB:DEP:jrs



# OFFICE OF THE MARICOPA COUNTY ATTORNEY

DONALD W. HARRIS COUNTY ATTORNEY

400 SUPERIOR COURT BUILDING, 101 W. JEFFERSON, PHOENIX, ARIZONA



November 4, 1976

School Opinion No. 76-25

William D. Lovett  
Associate Superintendent  
Business Services  
Mesa Public Schools  
549 North Stapley Drive  
Mesa, Arizona 85203

Dear Mr. Lovett:

This letter is in response to your request for an opinion which reviews a letter from this office dated May 12, 1976. In that letter it was determined that the Mesa Unified School District has no duty to supervise children who cross the Salt River Canal at 8th Avenue and Balboa on their way to or from school. I have reviewed the letter and have done additional research and it is still my opinion that the views expressed in the letter are sound.

In order for the Mesa Unified School District to be liable for injuries to students who cross the Balboa Street canal bridge there must be a showing of negligence by the district or the employees of the district. To show negligence on the part of the school district there must be a duty, either statutory or common law, to supervise pupils using the public street to go to or from school. I have found no cases which even suggest such a duty.

There are no cases in Arizona which are on point but there are some cases in other jurisdictions. For example, a California decision entitled Wright v. Arcadia School District, 230 Cal App. 2d 272, held that there is no common law duty for schools to transport pupils between home and school and no duty to exercise supervision of students going to or from school.

In another California case entitled Holmes v. Oakland, 67 Cal. Rptr. 197, the California court said, "A public entity cannot be held liable for dangerous conditions of 'adjacent property'. A public entity is liable only for dangerous conditions on its own property".

The only duty the Board of Trustees has is to hold pupils to strict account for disorderly conduct on the way to and from school according to A.R.S. Section 15-442 (15). This duty does not recognize any responsibility to supervise children on their way to and from school.

However, even though there is no duty to supervise the children crossing the bridge, it is my opinion that the Board of Trustees has authority under its general powers, to be exercised at its discretion, to place adult guards at the bridge during the periods the children are crossing the bridge just as the Board has authority to place guards at street crossings.

I must emphasize that the assumption of this duty by the school Board requires the school to exercise proper care in carrying out the duty and in selecting the adult guards.

A copy of this opinion is being sent to the Attorney General for his concurrence or revision.

Very truly yours,

DONALD W. HARRIS  
MARICOPA COUNTY ATTORNEY

By *Q. Dale Hatch*  
Q. Dale Hatch  
Deputy County Attorney